

REMARKS

Applicant respectfully requests reconsideration and allowance of the subject application.

35 U.S.C. § 103

Claims 59-67, 71 and 78-82 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,346,442 to Musmanno et al. (hereinafter "Musmanno") in view of U.S. Patent No. 6,240,399 to Frank et al. (hereinafter "Frank"). Applicant respectfully submits that claims 59-67, 71 and 78-82 are patentable over Musmanno in view of Frank.

Musmanno discloses:

Data processing for an improved securities brokerage/cash management system supervises, implements and coordinates a margin securities brokerage account; participation in one or more short term money market or comparable funds; and subscriber-initiated use of electronically responsive subscriber identity credit/debit media and/or checking systems. Subscriber expenditures, effected as by "charge card" use, check and/or cash advance are applied on a hierachal basis, seriatim, against the subscriber's free credit balance, short term investment and the lendable equity in his securities account. On a periodic basis, e.g., daily, received card charges, check, securities and deposit transactions for the ensemble of account participants are verified and employed to compute an updated credit limit for each subscriber. The transactional data is reviewed against predetermined norms to detect abuses such as check kiting. The short term investment position of each account is modified as necessary to permit money market or comparable earned yields on the account free credit cash balance. (Musmanno Abstract).

Applicant submits that the Musmanno reference fails to disclose or suggest the elements of claim 59. In particular Musmanno fails to disclose or suggest:

... wherein the financial management system obtains account information from the first and second accounts based on information provided by an account holder without permission of the first or second financial institution and without any pre-arranged data exchange agreement with the first or second financial institution;

....

as recited in amended claim 59. Thus, claim 59 recites the obtaining of account information from accounts at the first or second financial institution such that the first and second financial institutions have no pre-arranged agreement or knowledge regarding this retrieval of account information. In contrast, Musmanno discloses a system in which the financial institutions are cooperating with the retrieval of account information and, thereby, have a pre-arranged data exchange agreement. Musmanno specifically describes a pre-arranged system for exchanging data. For example, at col. 3, lines 12-15, the Musmanno reference states "... the bank first transmits to the brokerage central processing unit a record of all transactional information for each of the system subscribers, together with subscriber identification." Thus, in contrast to claim 59, Musmanno discloses a system having a pre-arranged data exchange agreement with a financial institution. Accordingly, Musmanno fails to disclose the retrieval of account information in the manner recited in claim 59.

Applicant further submits that the Frank reference fails to remedy this deficiency of Musmanno. Frank discloses:

An investment optimizing system and method. Once an investor or investment advisor determines the appropriate asset allocation and that there are both taxable accounts and tax-deferred investment accounts, the invention will optimize/maximize the investor's ending after-tax asset accumulation, which is the objective of all investors. This is accomplished by allocating the chosen investment vehicles between the taxable and tax-

deferred accounts in an optimum way. The invention runs on a computer system and searches for an allocation which results in a maximal return. Intelligent heuristics measure increased performance based on different asset allocations. (Frank Abstract).

Applicant submits that the Frank reference does not disclose or suggest the retrieval of account information in the manner recited in claim 59.

Furthermore, Applicant submits that the Musmanno reference does not disclose or suggest a financial management system that obtains account information "without permission of the first or second financial institution", as recited in amended claim 59. In contrast, Musmanno discloses a system in which the financial institution is cooperating with the retrieval of account information and, thereby, is permitting the retrieval of such information. As discussed above, Musmanno specifically describes a pre-arranged cooperation and permission to exchange data with financial institutions. Thus, Musmanno fails to disclose the retrieval of account information in the manner recited in claim 59. Applicant further submits that the Frank reference fails to remedy this deficiency of Musmanno.

Finally, Applicant submits that Musmanno does not disclose or suggest:

...

if the first account balance exceeds the particular value, the financial management system recommending a transfer of funds from the first account to the second account associated with the second financial institution, wherein the first account and the second account have a common account holder ...

if the first account balance is below the particular value, the financial management system recommending a transfer of funds from the second account to the first account.

as recited in amended claim 59. In particular, Musmanno makes no reference to transferring funds in one direction (from the first account to the second account) if the first account balance exceeds the particular value and transferring funds in the opposite direction (from the second account to the first account) if the first account balance is below the particular value. The Musmanno reference fails to disclose this bidirectional transfer of funds between commonly held accounts based on a comparison of the first account balance with the particular value. Although Musmanno discloses the movement of funds from a bank to a brokerage house, the reference does not disclose or suggest the bidirectional movement of funds described in claim 59 based on comparison of account balances with a particular value.

As such, Musmanno fails to disclose the bidirectional transfer of funds in the manner recited in claim 59. The Frank reference fails to remedy this deficiency of Musmanno. Applicant submits that the Frank reference does not disclose or suggest the bidirectional movement of funds described in claim 59 based on comparing account balances with a particular value.

Accordingly, for at least these reasons, Applicant respectfully submits that claim 59 is patentable over Musmanno in view of Frank. Given that claims 60-67, 71, and 78-82 depend from claim 59, Applicant respectfully submits that those claims are likewise allowable over Musmanno in view of Frank for at least the reasons discussed above.

Conclusion

Claims 59-67, 71 and 78-82 are in condition for allowance. Applicant respectfully requests reconsideration and issuance of the subject application. Should any matter in this case remain unresolved, the undersigned attorney respectfully requests a telephone conference with the Examiner to resolve any such outstanding matter.

Respectfully Submitted,

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By: 
Steven R. Sponseller
Reg. No. 39,384
(509) 324-9256 x250